

AMENDED IN ASSEMBLY APRIL 9, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 666**

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**Introduced by Assembly Member Mark Stone**

February 24, 2015

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An act to amend Section 786 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL’S DIGEST

AB 666, as amended, Mark Stone. Juveniles: sealing of records.

Existing law subjects a person under 18 years of age who commits a crime to the jurisdiction of the juvenile court, which may adjudge that person to be a ward of the court, except as specified. Under existing law, juvenile court proceedings to declare a minor a ward of the court are commenced by the filing of a petition by the probation officer, the district attorney after consultation with the probation officer, or the prosecuting attorney, as specified. Existing law requires the juvenile court to order the petition of a minor who is subject to the jurisdiction of the court dismissed if the minor satisfactorily completes a term of probation or an informal program of supervision, as specified, and requires the court to seal all records in the custody of the juvenile court pertaining to that dismissed petition, except as specified.

*This bill would, in those circumstances, also provide that these provisions apply to certain terms of probation only if the underlying offense was committed when the minor was 14 years of age or older. The bill would require records pertaining to those cases in the custody of law enforcement agencies, the probation department, or any other public agency having records pertaining to the case, to be sealed, those cases, to be sealed according to a certain procedure, except as specified.*

*The bill would make related changes.* The bill would also require the Judicial Council to adopt rules of court, and make available appropriate forms, providing for the standardized implementation of ~~this section~~ *these provisions* by the juvenile courts. By imposing new duties on local agencies relating to sealing juvenile records, this bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 786 of the Welfare and Institutions Code  
2     is amended to read:  
3     786. (a) ~~If the a~~ minor satisfactorily completes (1) an informal  
4     program of supervision pursuant to Section 654.2, (2) probation  
5     under Section 725, or (3) a term of probation for any offense not  
6     listed in subdivision (b) of Section ~~707~~, *707 committed when he*  
7     *or she was 14 years of age or older*; the court shall order the  
8     petition ~~dismissed, and the arrest upon which the judgment was~~  
9     ~~deferred shall be deemed not to have occurred.~~ *dismissed.* The  
10    court shall order sealed all records pertaining to that dismissed  
11    petition in the custody of the juvenile court, and in the custody of  
12    law enforcement agencies, the probation department, or any other  
13    public agency having records pertaining to the case, ~~except that~~  
14    ~~the prosecuting attorney and the probation department of a county~~  
15    ~~shall have access to these records after they are sealed for the~~  
16    ~~limited purpose of determining whether the minor is eligible for~~

1 deferred entry of judgment pursuant to Section 790. The court may  
 2 access a file that has been sealed pursuant to this section for the  
 3 limited purpose of verifying the prior jurisdictional status of a ward  
 4 who is petitioning the court to resume its jurisdiction pursuant to  
 5 subdivision (e) of Section 388. This access shall not be deemed  
 6 an unsealing of the record and shall not require notice to any other  
 7 entity. case. The court shall send a copy of the order to each  
 8 agency and official named in the order, direct the agency or official  
 9 to seal its records, and specify a date by which the sealed records  
 10 shall be destroyed. Each agency and official named in the order  
 11 shall seal the records in its custody as directed by the order, shall  
 12 advise the court of its compliance, and, after advising the court,  
 13 shall seal the copy of the court's order that was received. The  
 14 court shall also provide notice to the minor and minor's counsel  
 15 that it has ordered the petition dismissed and the records sealed  
 16 in the case. The notice shall include an advisement of the minor's  
 17 right to nondisclosure of the arrest and proceedings, as specified  
 18 in subdivision (b).

19 (b) Upon the court's order of dismissal of the petition, the arrest  
 20 upon which the judgment was deferred and other proceedings in  
 21 the case shall be deemed not to have occurred and the person who  
 22 was the subject of the petition may reply accordingly to any inquiry  
 23 by employers, educational institutions, or other persons or entities  
 24 regarding the arrest and proceedings in the case.

25 (c) (1) For purposes of this section, satisfactory completion of  
 26 an informal program of supervision or another term of probation  
 27 described in subdivision (a) shall be deemed to have occurred if  
 28 the person has no new findings of wardship or conviction for a  
 29 felony offense or a misdemeanor involving moral turpitude during  
 30 the period of supervision or probation and if he or she has not  
 31 failed to substantially comply with the reasonable orders of  
 32 supervision or probation that are within his or her capacity to  
 33 perform. The period of supervision or probation shall not be  
 34 extended solely for the purpose of deferring or delaying eligibility  
 35 for dismissal of the petition and sealing of the records under this  
 36 section.

37 (2) An unfulfilled order or condition of restitution that can be  
 38 converted to a civil judgment under Section 730.6 shall not be  
 39 deemed to constitute unsatisfactory completion of supervision or  
 40 probation under this section.

1     (d) (1) A record that has been ordered sealed by the court under  
2     this section may be accessed, inspected, or utilized only under any  
3     of the following circumstances:

4     (A) By the prosecuting attorney and the probation department  
5     for the limited purpose of determining whether the minor is eligible  
6     for deferred entry of judgment pursuant to Section 790 or for a  
7     program of supervision as defined in Section 654.3.

8     (B) By the court for the limited purpose of verifying the prior  
9     jurisdictional status of a ward who is petitioning the court to  
10    resume its jurisdiction pursuant to subdivision (e) of Section 388.

11    (C) If a new petition has been filed against the minor for a felony  
12    offense, by the probation department for the limited purpose of  
13    identifying the minor's previous court-ordered programs or  
14    placements, and in that event solely to determine the individual's  
15    eligibility or suitability for remedial programs or services. The  
16    information obtained pursuant to this subparagraph shall not be  
17    disseminated to other agencies or individuals, except as necessary  
18    to implement a referral to a remedial program or service, and  
19    shall not be used to support the imposition of penalties, detention,  
20    or other sanctions upon the minor.

21    (D) By the person whose record has been sealed, upon his or  
22    her request and petition to the court to permit inspection of the  
23    records.

24    (2) Access to, or inspection of, a sealed record authorized by  
25    paragraph (1) shall not be deemed an unsealing of the record and  
26    shall not require notice to any other agency.

27    (b)

28    (e) The Judicial Council shall adopt rules of court, and shall  
29    make available appropriate forms, providing for the standardized  
30    implementation of this section by the juvenile courts.

31    SEC. 2. The Legislature finds and declares that Section 1 of  
32    this act, which amends Section 786 of the Welfare and Institutions  
33    Code, imposes a limitation on the public's right of access to the  
34    meetings of public bodies or the writings of public officials and  
35    agencies within the meaning of Section 3 of Article I of the  
36    California Constitution. Pursuant to that constitutional provision,  
37    the Legislature makes the following findings to demonstrate the  
38    interest protected by this limitation and the need for protecting  
39    that interest:

1 In order to protect the privacy of children who have had their  
2 juvenile delinquency court records sealed, it is necessary that  
3 related records in the custody of law enforcement agencies, the  
4 probation department, or any other public agency also be sealed.

5 SEC. 3. If the Commission on State Mandates determines that  
6 this act contains costs mandated by the state, reimbursement to  
7 local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.

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